

performance (handicap) shall be assigned to a local office Equal Opportunity (EO) representative if the local office has a trained and designated EO representative, or, if the local office does not have such a representative, shall be sent immediately to the State agency for logging and assignment to the EO representative or, where appropriate, handled in accordance with the procedures set forth at 29 CFR part 31. The EO representative shall refer complaints alleging discrimination by employers to the Equal Employment Opportunity Commission or other appropriate enforcement agency. Complaints retained by an EO representative shall be subject to the hearing and appeal rights as are normally provided in accordance with this subpart. The State agency complaint specialist shall follow-up with the EO representative or with other responsible enforcement agency monthly regarding MSFW complaints and quarterly regarding non-MSFW complaints, and shall inform the complainants of the status of the complaint periodically.

(2) All JS-related and non-JS related complaints other than those described in paragraph (b)(1) of this section shall be handled by the local office manager or assigned by the local office manager to a local office employee trained in JS complaint procedures.

(c) Assignment of complaints to State office personnel shall be as follows:

(1) The handling of all JS-related complaints received by the State office alleging unlawful discrimination by race, color, religion, national origin, sex, age, physical or mental status unrelated to job performance (handicap) status shall be assigned to a State EO representative and, where appropriate, handled in accordance with procedures set forth at 29 CFR part 31.

(2) The handling of all other JS-related complaints and all non-JS-related complaints received by the State office shall be assigned to a State agency official designated by the State Administrator, provided that the State agency official designated to handle MSFW complaints shall be the State MSFW Monitor Advocate.

§ 658.412 Complaint resolution.

(a) A JS-related complaint is resolved when:

(1) The complainant indicates satisfaction with the outcome, or

(2) The complainant chooses not to elevate the complaint to the next level of review, or

(3) The complainant or the complainant's authorized representative fails to respond within 20 working days or in cases where the complainant is an MSFW, 40 working days of a written request by the appropriate local or State office, or

(4) The complainant exhausts the final level of review, or

(5) A final determination has been made by the enforcement agency to which the complaint was referred.

§ 658.413 Initial handling of complaints by the State or local office.

(a) There shall be an appropriate official available during regular office hours to take complaints in each local office.

(b) Whenever an individual indicates an interest in making any complaint to a State agency office, the appropriate JS official shall offer to explain the operation of the JS complaint system. The appropriate JS official shall offer to take the complaint in writing if it is JS related, or if non-JS related, it alleges violations of employment related laws enforced by ESA or OSHA and is filed by or on behalf of an MSFW. The official shall require that the complainant put the complaint on the JS Complaint/Referral Form prescribed or approved by the ETA. The JS Complaint/Referral Form shall be used for all complaints taken by a State agency, including complaints about unlawful discrimination, except as provided in paragraph (c) of this section. The State agency official shall offer to assist the complainant in filling out the form and shall do so if the complainant desires such assistance. If the complainant also represents several other complainants, all such complainants shall be named on the JS Complaint/Referral Form. The complainant shall sign the completed form. The identity of the complainant(s) and any persons who furnish information relating to, or